

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:	Janne La. AALTONEN <i>et al.</i>	Confirmation No.:	2213
Application No.:	10/688,430	Examiner:	Lai, Michael C
Filed:	October 17, 2003	Group Art Unit:	2457

For: SYSTEM AND ASSOCIATED TERMINAL, METHOD AND COMPUTER
 PROGRAM PRODUCT FOR RECORDING CONTENT USAGE
 STATISTICS

Commissioner for Patents
Alexandria, VA 22313-1450

APPEAL BRIEF

Dear Sir:

This Appeal Brief is submitted in support of the Notice of Appeal dated December 2, 2010.

I. REAL PARTY IN INTEREST

The real party in interest is Nokia Corporation, a corporation organized under the laws of Finland and having a place of business at Keilalahdentie 4, FIN-02150 Espoo, Finland. The above referenced patent application is assigned to Nokia Corporation.

II. RELATED APPEALS AND INTERFERENCES

Appellants are unaware of any related appeals and interferences.

III. STATUS OF THE CLAIMS

Claims 1-6, 8-25, 27-42, 44-59 and 61-71 are pending in this appeal, where claims 7, 26, 43 and 60 have earlier been canceled. No claim is allowed. This appeal is therefore taken from the final rejection of claims 1-6, 8-25, 27-42, 44-59 and 61-71 in the Final Office Action dated September 2, 2010 (hereinafter referred to as the “9/2/1010 Final Office Action”).

IV. STATUS OF AMENDMENTS

All amendments to the claims have been entered.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

The claimed invention addresses problems associated with conventional statistic collecting and rating systems for broadcast content. Specifically, statistics regarding broadcast content is typically not tracked until the content is broadcast, and are typically collected only after a period of time. Such statistics, therefore, cannot be utilized to affect the same broadcast content and advertisements that are tracked to generate the statistics. Instead, historical statistics-relating to prior broadcasts of the same type of content are generally utilized for modifying and/or pricing the content that is now available, and/or for pricing the related advertising. By relying on historical statistics, however, errors can arise due to the passage of time, change in the audience, etc., such that the content is not modified and/or the contents or advertisements are not priced properly. The claimed invention generally relates to systems and methods for recording content usage statistics and, more particularly, to systems, terminals, methods and computer program products for recording content usage statistics prior to the associated content broadcast, and including a location of a terminal accessing and presenting such content.

Independent claim 1 provides for the following:

1. A system comprising:

a terminal configured to determine to access at least one piece of content from a memory of the terminal in an offline manner after receipt of the at least one piece of content (*See, e.g.,* Specification ¶¶ 12, 59-60, 65),

the access of the at least one piece of content being a trigger to the terminal to determine to obtain its location (*See, e.g.,* Specification ¶¶ 10, 13, 57, 58, 66),

the terminal being configured to determine to obtain its location in response to the trigger (*See, e.g.,* Specification ¶¶ 10, 15, 57, 58, 66),

wherein the terminal is also configured to determine to store, into a content usage log, at least one content usage statistic relating to the access of the at least one piece of content from memory (*See, e.g.,* Specification ¶¶ 13, 15, 57, 63, 66), and

wherein at least one content usage statistic comprises the location of the terminal (*See, e.g.,* Specification ¶¶ 13, 15, 58, 63, 66); and

a destination configured to receive the content usage log including the at least one content usage statistic (*See, e.g.,* Specification ¶¶ 11, 14, 15, 64, 70).

Independent claim 11 provides for the following:

11. A system comprising:

a terminal configured to determine to access at least one piece of content from a memory (*See, e.g.,* Specification ¶¶ 12, 59-60, 65),

wherein the at least one piece of content comprises at least one piece of pre-broadcast content related to broadcast content (*See, e.g.,* Specification ¶¶ 11, 12, 14, 71),

the pre-broadcast content including the broadcast content (*See, e.g.*, Specification ¶¶ 12, 72),

wherein the terminal is also configured to determine to store, into a content usage log, at least one content usage statistic relating to the terminal accessing the at least one piece of pre-broadcast content from the memory (*See, e.g.*, Specification ¶¶ 12-14, 72, 74-76); and

a destination configured to receive the content usage log including the at least one content usage statistic before the broadcast content is broadcast (*See, e.g.*, Specification ¶¶ 11, 14, 78).

Independent claim 20 provides for the following:

20. An apparatus comprising:

at least one processor (*See, e.g.*, Specification ¶¶ 40, 42, 52, 57); and

at least one memory including computer program code for one or more programs (*See, e.g.*, Specification ¶¶ 40, 42, 52, 57),

the at least one memory and the computer program code configured to, with the at least one processor, cause the apparatus to perform at least the following (*See, e.g.*, Specification ¶¶ 40, 42, 52),

determine to access at least one piece of content from a memory in an offline manner after receipt of the at least one piece of content, the access of the at least one piece of content being a trigger to determine to obtain a location of the apparatus (*See, e.g.*, Specification ¶¶ 10, 12, 13, 57-60, 65, 66);

determine to obtain the location of the apparatus in response to the trigger (*See, e.g.*, Specification ¶¶ 10, 15, 57, 58, 66); and

determine to store at least one content usage statistic relating to the access of the at least one piece of content from memory into a content usage log, wherein the at least one content usage statistic comprises the location of the apparatus (*See, e.g.,* Specification ¶¶ 13, 15, 57, 58, 63, 66).

Independent claim 29 provides for the following:

29. An apparatus comprising:

at least one processor (*See, e.g.,* Specification ¶¶ 40, 42, 52, 57); and

at least one memory including computer program code for one or more programs (*See, e.g.,* Specification ¶¶ 40, 42, 52, 57),

the at least one memory and the computer program code configured to, with the at least one processor, cause the apparatus to perform at least the following (*See, e.g.,* Specification ¶¶ 40, 42, 52),

determine to access at least one piece of content from a memory, the at least one piece of content comprising at least one piece of pre-broadcast content related to broadcast content, the pre-broadcast content including the broadcast content (*See, e.g.,* Specification ¶¶ 11, 12, 14, 59-60, 65, 71);

determine to store, into a content usage log, at least one content usage statistic relating to accessing the at least one piece of pre-broadcast content from the memory (*See, e.g.,* Specification ¶¶ 12-14, 72, 74-76); and

determine to send the content usage log to a destination before the broadcast content is broadcast (*See, e.g.,* Specification ¶¶ 11, 14, 78).

Independent claim 37 provides for the following:

37. A method comprising:

determining to access at least one piece of content from a memory of a terminal in an offline manner after receipt of the at least one piece of content, the access of the at least one piece of content being a trigger to determine to obtain a location of the terminal (*See, e.g.*, Specification ¶¶ 10, 12, 13, 57-60, 65, 66);

determining to obtain the location of the terminal in response to the trigger (*See, e.g.*, Specification ¶¶ 10, 15, 57, 58, 66); and

determining to store at least one content usage statistic relating to the access of the at least one piece of content into a content usage log, wherein at least one content usage statistic comprises the location of the terminal (*See, e.g.*, Specification ¶¶ 13, 15, 57, 58, 63, 66).

Independent claim 46 provides for the following:

46. A method comprising:

determining to access at least one piece of content from a memory of a terminal, wherein the at least one piece of content comprises at least one piece of pre-broadcast content related to broadcast content, the pre-broadcast content including the broadcast content (*See, e.g.*, Specification ¶¶ 11, 12, 14, 59-60, 65, 71);

determining to store, into a content usage log, at least one content usage statistic relating to accessing the at least one piece of pre-broadcast content from the memory (*See, e.g.*, Specification ¶¶ 12-14, 72, 74-76);

determining to send the content usage log to a destination (*See, e.g.*, Specification ¶¶ 11, 14, 78); and thereafter

determining to broadcast the broadcast content (*See, e.g.*, Specification ¶¶ 79).

Independent claim 54 provides for the following:

54. A computer-readable storage medium carrying one or more sequences of one or more instructions which, when executed by one or more processors, cause an apparatus to at least perform the following steps (*See, e.g.*, Specification ¶¶ 40, 42, 52, 57):

determining to access at least one piece of content from a memory of a terminal in an offline manner after receipt of the at least one piece of content, the access of the at least one piece of content being a trigger to determine to obtain a location of the terminal (*See, e.g.*, Specification ¶¶ 10, 12, 13, 57-60, 65, 66);

determining to obtain the location of the terminal in response to the trigger (*See, e.g.*, Specification ¶¶ 10, 15, 57, 58, 66); and

determining to store at least one content usage statistic relating to the access of the at least one piece of content into a content usage log, wherein at least one content usage statistic comprises the location of the terminal (*See, e.g.*, Specification ¶¶ 13, 15, 57, 58, 63, 66).

Independent claim 63 provides for the following:

63. A computer-readable storage medium carrying one or more sequences of one or more instructions which, when executed by one or more processors, cause an apparatus to at least perform the following steps (*See, e.g.*, Specification ¶¶ 40, 42, 52, 57):

determining to access at least one piece of content from a memory of a terminal, wherein the at least one piece of content comprises at least one piece of pre-broadcast content related to broadcast content, the pre-broadcast content including the broadcast content (*See, e.g.*, Specification ¶¶ 11, 12, 14, 59-60, 65, 71);

determining to store at least one content usage statistic relating to accessing the at least one piece of pre-broadcast content into a content usage log (*See, e.g.*, Specification ¶¶ 12-14, 72, 74-76); and

determining to send the content usage log to a destination before the broadcast content is broadcast (*See, e.g.*, Specification ¶¶ 11, 14, 78).

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-6, 8-25, 27-42, 44-59 and 61-71 were properly rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

Whether claims 11-16, 18-19, 29-34, 36, 46-51, 53, 63-68 and 70 were properly rejected under 35 U.S.C. § 103(a) as being unpatentable over *Hendricks et al.* (US 5,798,785)(hereinafter referred to as *Hendricks*) in view of *Bims* (US 6,788,658)(hereinafter referred to as *Bims*).

Whether claims 1-4, 6, 8-10, 20-23, 25, 27-28, 37-40, 42, 44-45, 54-57, 59, 61-62 and 71 were properly rejected under 35 U.S.C. § 103(a) as being unpatentable over *Hendricks* in view of *Bims*, and further in view of *Hale et al.* (6,785,539)(hereinafter referred to as *Hale*).

Whether claims 5, 24, 41 and 58 were properly rejected under 35 U.S.C. § 103(a) as being unpatentable over *Hendricks* in view of *Bims* and *Hale*, and further in view of *Inoue* (US 5,826,168)(hereinafter referred to as *Inoue*).

Whether claims 17, 35, 52 and 69 were properly rejected under 35 U.S.C. § 103(a) as being unpatentable over *Hendricks* in view of *Bims*, and further in view of *Inoue*.

VII. ARGUMENT**A. Objection to Claims 20 and 29**

Appellants note that claims 20 and 29 were objected to on the basis of certain specified informalities. In response, Appellants submit that, upon an indication of allowance or allowability, Appellants will correct the specified informalities.

B. The Rejection of Claims 1-6, 8-25, 27-42, 44-59 and 61-71 Under 35 U.S.C. § 112, First Paragraph, is Improper Because the Specification Contains Adequate Descriptive Support for the Elements “Determine/ing to Access,” “Determine/ing to Store,” And “Determine/ing to Obtain,” as Recited in the Rejected Claims.

The MPEP specifies that an applicant for patent satisfies the written description requirement by conveying with reasonable clarity to those of skill in the art that the applicant was in possession of the invention as claimed. *See MPEP*, § 2163.02 (citing *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1563-64, 19 USPQ2d 1111, 1117 (Fed. Cir. 1991)) (*emphasis added*). The MPEP further states that “[t]he test for sufficiency of support in a parent application is whether the disclosure of the application relied upon ‘reasonably conveys to the artisan that the inventor had possession at that time of the later claimed subject matter.’ *Id.* (citing *Ralston Purina Co. v. Far-Mar-Co., Inc.*, 772 F.2d 1570, 1575, 227 USPQ 177, 179 (Fed. Cir. 1985) (quoting *In re Kaslow*, 707 F.2d 1366, 1375, 217 USPQ 1089, 1096 (Fed. Cir. 1983))). Moreover, the exact language of the claim need not be employed in order to satisfy the written description requirement. *See MPEP*, § 2163.02(I)(B) (“The subject matter of the claim need not be described literally (i.e., using the same terms or *in haec verba*) in order for the disclosure to satisfy the description requirement.”); and § 2163 (“While there is no *in haec verba* requirement, newly added claim limitations must be supported in the specification through express, implicit, or

inherent disclosure.”) (*emphasis added*). Appellants respectfully submit that the language “determine to” and “determining to,” which forms the basis for the Examiner’s written description rejection, is sufficiently supported by the specification.

First, according to Merriam-Webster’s online dictionary (Merriam-webster.com) and the website dictionary.com, the ordinary meaning of the term “determine” is “to settle or decide by choice of alternatives or possibilities,” or “to bring about as a result,” or “to cause, affect, or control.” Accordingly, assessing the literal meaning of the claim language, as in the case of the method claims, “determining to” specifies that a decision is made to “bring about as a result” or to “cause, affect or control” the associated method step. For example, in the case of the method claims, according to the step of “determining to access at least one piece of content from a memory of a terminal,” a decision is made to cause or bring about as a result the accessing of at least one piece of content from the memory of the terminal. Similarly, in the case of the apparatus/system claims, whereby the apparatus is “configured to determine to” or a processor causes the apparatus to perform the function to “determine to,” the claim specifies that a decision is made to cause to apparatus to perform the associated function. For example, in the case of the element “a terminal configured to determine to access at least one piece of content from a memory” (or “the at least one memory and the computer program code configured to, with the at least one processor, cause the apparatus to ... determine to access at least one piece of content from a memory”), a decision is made to cause the apparatus to access at least one piece of content from the memory.

Second, Appellants submit that the instant specification contains ample support for such claim language. For example, the Specification provides, as follows:

[T]he entity capable of operating as a terminal 10, origin server 24, digital broadcast receiving terminal 28, and/or a digital broadcaster 30 can generally

include a **processor 32 connected to a memory 34**. ... The memory can comprise volatile and/or non-volatile memory, and typically stores content, data or the like. For example, **the memory typically stores software applications, instructions or the like for the processor to perform steps associated with operation of the entity in accordance with embodiments of the present invention**. Also, for example, the memory typically stores content transmitted from, or received by, the terminal, digital broadcast receiving terminal, and/or digital broadcaster. (*Specification*, ¶ 40) (*emphasis added*).

Accordingly, the Specification clearly and unambiguously discloses a processor, along with a memory and stored software applications, “for the processor to perform steps associated with operation of the entity in accordance with embodiments of the present invention.” In other words, the processor, under execution of the associated software applications, “determines to” cause the entity to perform the associated method step or apparatus function. In view of the foregoing, Applicants submit that the Specification conveys with reasonable clarity to those of skill in the art that the Appellants were in possession of the invention as claimed. Therefore, claims 1-6, 8-25, 27-42, 44-59 and 61-71 are in compliance with 35 U.S.C § 112, first paragraph.

Appellants, therefore, respectfully request that the rejection of claims 1-6, 8-25, 27-42, 44-59 and 61-71 under 35 U.S.C § 102, first paragraph, be reversed.

C. Claims 11-16, 18-19, 29-34, 36, 46-51, 53, 63-68 and 70 are Not Rendered Obvious by *Hendricks* In View Of *Bims*, Because the Cited References, Either Alone or in Combination, Fail to Disclose the Feature of Sending/Receiving the Content Usage Log Before the Broadcast Content is Broadcast, in the Manner as Recited by Independent Claims 11, 29, 46 and 63

Appellants respectfully traverse the 35 U.S.C. § 103(a) rejection of claims 11-16, 18-19, 29-34, 36, 46-51, 53, 63-68 and 70 over *Hendricks* in view of *Bims*, because all features of the claims are not disclosed by the applied art, either individually or in combination.

For example, independent claim 11 recites, *inter alia*, that the destination is “configured to receive the content usage log including the at least one content usage statistic before the broadcast content is broadcast.” Independent claim 29 similarly recites, *inter alia*, that the processor of the apparatus is caused to “determine to send the content usage log to a destination before the broadcast content is broadcast.” Further, independent claim 46 recites, *inter alia*, “determining to send the content usage log to a destination; and thereafter determining to broadcast the broadcast content” (accordingly, the content usage log is sent to the destination before the broadcast of the broadcast content). Finally, independent claim 63 recites, *inter alia*, “determining to send the content usage log to a destination before the broadcast content is broadcast.” Appellants submit, as presented below, that the cited combination of *Hendricks* in view of *Bims* neither discloses nor suggests such features.

According to the statement of the rejection in the 9/2/2010 Final Office Action, the Examiner does not even allege that *Hendricks* discloses sending or receiving the content usage log **before the broadcast content is broadcast**. (See 9/2/2010 Final Office Action, P. 4, lines 1-11) Moreover, on pages 10 and 17 of the 1/6/2009 Final Office Action issued in this matter, the Examiner admitted that *Hendricks* in fact fails to disclose the above-noted distinguishing claim features. Specifically, in the 1/6/2009 Final Office Action, the Examiner acknowledged that “Hendricks discloses substantially all the limitations in claim 11 as discussed above, but fails to teach that the destination configured to receive one content usage statistic before the broadcast content is broadcast.” (1/6/2009 Final Office Action, P. 10, lines 1-3, and P. 17, lines 19-21) Instead, in the 1/6/2009 Final Office Action, the Examiner relied on *Inoue* to fill in this missing piece from *Hendricks*, contending that:

However, Inoue teaches a near video-on-demand signal receiver pre-stores the first segment of a desired video program in the buffer memory apparatus. When a user requests reception and display of the video program, the pre-recorded segment (pre-broadcast) is immediately reproduced and displayed while the receiver scans the channels carrying the program for the remaining segment of the program (col. 8, lines 37-49). It would have been obvious to a person with ordinary skill in the art at the time the invention was made to try to collect pre-broadcast statistics by receiving content usage statistic before the broadcast content is broadcast, thereby providing useful information about media sampling/promotion.

(See 1/6/2009 Final Office Action, Pp. 10, lines 3-12, and P. 18, lines 1-9) In response to this rejection, however, in the Appellants Appeal Brief filed on 6/15/2009 in this matter, the Appellants successfully argued that that independent claim 11 is patentably distinct from the cited combination of *Hendricks* and *Inoue*, taken individually or in any proper combination. (See 6/15/2009 Appeal Brief, Section D, Pp. 9-11, as amended on 8/25/2009 and 12/9/2009) In the next action (the 3/22/2010 non-final Office Action), the Examiner accordingly acknowledged that the arguments presented in the 12/9/2009 Appeal Brief were persuasive, and prosecution was reopened and the claims were rejected under the new grounds for rejection set forth therein. (See 3/22/2010 Office Action, Response to Arguments, P. 2) Pursuant to the new grounds for rejection, however, the Examiner rejected claim 11 as being anticipated by *Hendricks* under § 102(b), but (as with the present rejection of claim 11) the Examiner did not even allege that *Hendricks* discloses sending or receiving the content usage log **before the broadcast content is broadcast**. (See 3/22/2009 Office Action, P. 3, lines 1-11)

On the other hand, in the present 9/2/2010 Final Office Action, with respect to the § 103(a) rejection of claim 29, the Examiner contends that *Hendricks* discloses that the content usage log is sent to a destination before the broadcast content is broadcast. (See 9/2/2010 Final Office Action, P. 7, lines 7-8) Interestingly, however, as a basis for this contention, the Examiner refers to Fig. 3, and the associated disclosure at col. 9, lines 11-19, to which the Examiner also

cited in the § 103(a) rejection of claim 11 (set forth in the 1/6/2009 Final Office Action), when the Examiner acknowledged that *Hendricks* in fact failed to disclose this feature. (See 1/6/2009 Final Office Action, Pp. 9-10). Assuming that the Examiner intended to allege that the *Hendricks* reference satisfies the above claim features of independent claims 11, 46 and 63, as with the rejection to claim 29, Appellants submit that *Hendricks* does not in fact disclose such features, as alleged by the Examiner with respect to claim 29. (9/2/2010 Final Office Action, P. 7, lines 7-8)

Hendricks generally provides a television set-top terminal that is capable of being remotely reprogrammed, and of assisting a subscriber by suggesting programs for viewing. (*Hendricks*, col. 2, lines 38-43) Specifically, According the statement of the § 103(a) rejection with respect to claim 29, the Examiner alleges that *Hendricks* discloses an apparatus, where the processor of the apparatus is caused to “send the content usage log to a destination before the broadcast content is broadcast (202 Operations Center Fig. 3 and col. 9, lines 11-19).” The cited passage of *Hendricks* discloses the following:

The local cable company will in turn be in communication with the operations center 202 or a regional control center (not shown) which accumulates return data from the set top terminal 220 for statistical or billing purposes. In alternative system embodiments, the operations center 202 and the statistical and billing sites are collocated. Further, telephone lines with modems are used to transfer information from the set top terminal 220 to the statistical and billing sites.

(*Hendricks*, col. 9, lines 11-19)(*emphasis added*). The foregoing disclosure, with reference to Fig. 3, is in the context of the cable headend, and addresses various functions between the operations center 202 and the user set-top terminals, performed through the cable headend 208 as an intermediary (operated by the local cable company). (*Hendricks*, col. 7, line 49 to col. 8, line 8) As one of these functions, the cable headend 208 operates as a network controller and performs the system control functions for the system. (*Hendricks*, col. 8, lines 33-34) The

primary function of the network controller 214 is to manage the configuration of the set top terminals 220 and process signals received from the set top terminals 220, including the monitoring of automatic poll-back responses from the set top terminals 220. (*Hendricks*, col. 8, lines 34-41) Through polling and automatic report-back, the network controller 214 maintains account and billing information as well as monitoring authorized channel access. (*Hendricks*, col. 8, lines 41-44) The foregoing passage from *Hendricks* (col. 9, lines 11-19), cited by the Examiner, therefore, discloses that the local cable company (cable headend network controller 214) provides the automatic poll-back responses from the set top terminals 220 to the operations center 202 for the accumulation of return data from the set top terminal 220 (i.e., account and billing information, and information regarding authorized channel access) for statistical or billing purposes.

Accordingly, *Hendricks* discloses that the network controller, through an automatic polling function, collects from the subscriber set-top terminals subscriber account and billing information, information regarding authorized channel access, and perhaps other statistical information, and forwards this information to the operations center 202. Appellants submit, however, that for one thing, *Hendricks* lacks any disclosure or indication that such poll-back data is sent or received before any associated broadcast content is broadcast, as presently claimed. Indeed, *Hendricks* in fact lacks any disclosure or suggestion that the poll-back data is even associated with any particular future broadcast content. As a second matter, assuming (for argument sake) that the poll-back data is associated with broadcast content, the poll-back data (by its nature) is apparently collected after subscriber access of authorized channels and viewing of broadcast content – for example, by its nature, billing information is collected after the subscriber views the content to which the billing relates. The § 103(a) rejection of independent claims 11,

29, 46 and 63, therefore, fails to demonstrate that *Hendricks* discloses or suggests the claimed feature of sending/receiving the content usage log before the broadcast content is broadcast, in the manner as recited by independent claims 11, 29, 46 and 63.

With regard to the *Bims* reference, the Examiner relies on *Bims* for the disclosure of the claimed aspects of “determine/ing to store” and “determine/ing to access,” which the Examiner acknowledges as missing from the disclosure of *Hendricks*. Appellants submit, however, that the *Bims* reference also fails to disclose the claimed feature of sending/receiving the content usage log before the broadcast content is broadcast, in the manner as recited by independent claims 11, 29, 46 and 63, and thus fails to cure the foregoing deficiencies of *Hendricks*.

Accordingly, for at least the foregoing reasons, neither *Hendricks* or *Bims* alone, nor the cited combination of *Hendricks* in view of *Bims*, render independent claims 11, 29, 46 and 63, or claims 12-16, 18-19, 30-34, 36, 47-51, 53, 64-68 and 70 depending therefrom, obvious under 35 U.S.C. § 103(a).

D. Claims 1-4, 6, 8-10, 20-23, 25, 27-28, 37-40, 42, 44-45, 54-57, 59, 61-62 and 71 are Not Rendered Obvious by *Hendricks* in View of *Bims*, and Further in View of *Hale*, Because the Cited References, Either Alone or in Combination, Fail to Disclose the Feature the Claimed Features Whereby the Terminal Accesses Content From Memory in an Offline Manner, and That the Access of the Content Serves as a Trigger for the Terminal to Determine its Location, in the Manner as Recited by Independent Claims 1, 20, 37 and 54

Appellants respectfully traverse the 35 U.S.C. § 103(a) rejection of claims 1-4, 6, 8-10, 20-23, 25, 27-28, 37-40, 42, 44-45, 54-57, 59, 61-62 and 71 over *Hendricks* in view of *Bims*, and further in view of *Hale*, because all features of the claims are not disclosed by the applied art, either individually or in combination.

For example, independent claim 1 recites, *inter alia*, “a terminal configured to determine to access at least one piece of content from a memory of the terminal in an offline manner after

receipt of the at least one piece of content, the access of the at least one piece of content being a trigger to the terminal to determine to obtain its location.” Similarly, independent claim 20 recites, *inter alia*, that the processor of the apparatus is caused to “determine to access at least one piece of content from a memory in an offline manner after receipt of the at least one piece of content, the access of the at least one piece of content being a trigger to determine to obtain a location of the apparatus.” Further independent claims 37 and 54 each recites, *inter alia*, “determining to access at least one piece of content from a memory of a terminal in an offline manner after receipt of the at least one piece of content, the access of the at least one piece of content being a trigger to determine to obtain a location of the terminal.” Appellants submit, as presented below, that the cited combination of *Hendricks* in view of *Bims*, and further in view of *Hale*, neither discloses nor suggests such features.

With respect to claim 1, according to the statement of the rejection, the Examiner asserts that “Hendricks and Bims disclose substantially all the limitations in claim 1, but fails to teach the access of the at least one piece of content being a trigger to the terminal to obtain its location, the terminal being configured to obtain its location in response to the trigger.” (9/2/2010 *Final Office Action*, P. 10, lines 16-19) Instead, the Examiner relies on *Hale* for the disclosure of these features. Specifically, the Examiner contends that:

Hale teaches a portable device used to automatically store usage patterns. The stored information may be used for tracking user preferences, may be used to infer user location and direction. The information gathered from many devices may be collected in a database. The data may be analyzed to determine group behavior, identify popular locations (col. 10, lines 35-67). It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Hale's teaching into Hendricks' and Bims' system for the purpose of tracking locations of terminals by triggering terminals to obtain their locations when access a piece of content, thereby collecting useful usage patterns and location related information.

(9/2/2010 Final Office Action, P. 10, line 19 to P. 7, line 6) Appellants respectfully submit, however, that the Examiner's reliance on *Hale* is misplaced.

Hale generally provides a system for presenting audio and/or visual information through portable devices, for the purposes of captioning, language translation, assistive listening and descriptive audio to individual patrons of rides, meeting areas, pathways, shows and exhibits, without using intrusive open captioning or hard wired individual display systems. (*Hale*, col. 2, lines 14-20) The system of *Hale* uses of infrared (IR) or radio frequency (RF) signals to wirelessly trigger portable devices. (*Hale*, col. 2, lines 20-22) Wireless transmitters, installed at various locations are configured to transmit short messages, or codes, corresponding to location, type of sign, show time, time of day, etc, and the transmitters may cover a large area such as a theater, or be precisely directed to cover a small area. (*Hale*, col. 2, lines 23-33) Guests carry portable devices loaded with content information, and when the device is within range of a transmitter, the device receives the transmitted codes. (*Hale*, col. 2, lines 34-39) Upon receiving a code, the device searches its memory for appropriate content, tests any logic constraints, and presents the content to the user, where the logic constraints can be based on user preferences, time of day, time of event, locations of transmitters visited, time of visits, sequence of transmitters visited, intended device type, etc. (*Hale*, col. 2, lines 40-45) Accordingly, *Hale* generally discloses a system where portable devices contain different pieces of content information associated with different venue locations, and, when the device is within the range of a transmitter at a specific venue location, the device receives a code from the transmitter that triggers the device to access and present the corresponding piece of content to the user. Therefore, *Hale* discloses that a portable device receives a code from a particular transmitter at a venue location, and the code triggers the device to access a particular piece of content from

memory – and not that a terminal accesses at least one piece of content from memory, where the access of the at least one piece of content provides a trigger to the terminal to determine its location, as presently claimed.

In the attempt to satisfy the above features of the present claims, the Examiner cites to col. 10, lines 35-67 of *Hale*. (9/2/2010 *Final Office Action*, P. 10, line 19 to P. 7, line 6) The cited passages of *Hale* provide as follows:

In particular embodiments, **toys could include IR or RF receivers that respond to triggers located throughout a theme park and provide location based information at each of those venues. For example, a stuffed animal could be triggered to speak or move while carried through different areas of a theme park**, acting as a tour guide for a child.

The memory in the portable device may be used to automatically store usage patterns. The stored information may be used to alter a device's presentation, may be used for tracking user preferences, **may be used to infer user location and direction**, or may be used to identify missing codes and faulty transmitters.

For example, a portable audio device user repeatedly visiting a location may hear different descriptions on visit 2, visit 3, etc. Repeated return visits to one location may infer a high user interest, so the device may present more and more detailed content on each visit.

Information stored in a portable device may be retrieved via its transmitter. The information gathered from many devices may be collected in a database. The database may contain the travel path and times, as well as the history of user requests (via pushbuttons or touch-screen.) The data may be anonymous, and analyzed to determine group behavior, identify popular locations, isolate busy and idle times, etc. A user could also enter personal information such as name, and the extracted data could be used to reconstruct vacation activities, or reminisce about favorite locations.

The data collected in the portable device may be matched against geographical information also stored in the portable device. Analyzing the locations visited and the sequence of the visits could infer a direction of future travel. The portable device could present content that suggested future destinations.

(*Hale*, col. 10, lines 35-67) The foregoing passages disclose a particular embodiment where the portable device consists of a toy (e.g., stuffed animal) that includes an IF or RF receiver, and the toy (as carried, for example, through a theme park) receives signals from transmitters at particular venue locations throughout the theme park. (*Hale*, col. 10, lines 34-39) The first passage of this cited disclosure, however, as with the general disclosure of *Hale* outlined above, provides that the portable devices receive triggers from transmitters located throughout the theme park, and the triggers trigger the device to present content to the user. (*Hale*, col. 10, lines 34-39) Further, while the disclosure specifies that location based information is provided at each of the venue locations, the reference is not specific as to whether the portable device is providing the location based information to the venue location or whether the venue location is providing the location based information to the portable device. At best, the *Hale* disclosure could be interpreted as providing that the terminal is triggered to access particular content from its memory when it receives the codes or trigger from a transmitter at a particular venue location, which essentially is accessing the content in an on-line manner. The disclosure, however, certainly does not provide that the terminal accesses content from its memory in an offline manner, and that the access of content serves as a trigger for the terminal to determine its location, in the manner as presently claimed.

The next cited passage provides that the memory of the portable device may be used to store usage patterns based on the activities of the user. As one example, *Hale* provides that the portable device may use the usage pattern to determine the number of times a particular user visits a specific venue location, and alters its presentation based on the number of visits (e.g., provides a more detailed presentation on subsequent visits to the same location). (*Hale*, col. 10, lines 40-51) Further, as an additional example, *Hale* provides that the usage patterns may be used

to infer user location and direction, but lacks any further description as to what is meant by inferring user location and direction. (*Hale*, col. 10, lines 40-45) Subsequently, *Hale* provides that the information stored in a portable device may be retrieved, and information gathered from many devices may be collected in a database, where the database may contain the travel path and times, as well as a history of user requests (via pushbuttons or touch-screen). While this disclosure again makes reference to the use of the information regarding usage patterns of the user in some manner related to travel paths of the user, this disclosure by no means provides any disclosure or suggestion of specifics as to any determination of location information by the portable devices and/or collection of location information from the portable devices. This disclosure, therefore, also fails to provide any teaching or suggestion that the terminal accesses content from its memory in an offline manner, and that the access of content serves as a trigger for the terminal to determine its location, in the manner as presently claimed.

Accordingly, the cited passages from *Hale*, and for that matter the entire disclosure of *Hale*, fails to disclose or suggest the claimed features of accessing at least one piece of content from a memory of the terminal in an offline manner after receipt of the at least one piece of content, the access of the at least one piece of content being a trigger to the terminal to determine its location, in the manner as presently recited by independent claims 1, 20, 37 and 54.

With regard to the *Bims* reference, the Examiner again relies on *Bims* for the disclosure of the claimed aspects of “determine/ing to store” and “determine/ing to access,” which the Examiner acknowledges as missing from the disclosure of *Hendricks*. Appellants submit, however, that the *Bims* reference also fails to disclose the claimed features whereby the terminal accesses content from its memory in an offline manner, and that the access of content serves as a

trigger for the terminal to determine its location, in the manner as recited by independent claims 1, 20, 37 and 54, and thus fails to cure the foregoing deficiencies of *Hendricks* in view of *Hale*.

Accordingly, for at least the foregoing reasons, neither *Hendricks* or *Bims* alone, nor the cited combination of *Hendricks* in view of *Bims*, render independent claims 1, 20, 37 and 54, or claims 2-4, 6, 8-10, 21-23, 25, 27-28, 38-40, 42, 44-45, 55-57, 59, 61-62 and 71 depending therefrom, obvious under 35 U.S.C. § 103(a).

E. Claims 5, 24, 41 and 58 are Not Rendered Obvious by *Hendricks* in View of *Bims* and *Hale*, and Further in View of *Inoue*, Because the Additionally Cited Reference, *Inoue*, Fails to Cure the Foregoing Deficiencies of *Hendricks* in View of *Bims* and *Hale* (as presented in Section D, above)

Claims 5, 24, 41 and 58 depend from independent claims 1, 20, 37 and 54, respectively, and the rejection applies the cited combination of *Hendricks* in view of *Bims* and *Hale* to claims 5, 24, 41 and 58 on the same bases as with the § 103(a) rejection of their respective independent claims (addressed in Section D, above). Appellants, therefore, incorporate herein the arguments presented above in Section D with respect to the application of the cited combination of *Hendricks* in view of *Bims* and *Hale* to claims 5, 24, 41 and 58, accordingly. The Office Action cites to *Inoue* for the alleged disclosure of the claimed features “wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel (FIG. 2B), wherein the terminal is configured to access the at least one piece of pre-broadcast content at least a predefined period of time before the broadcast content is broadcast (T1 FIG. 2B), and wherein the predefined period of time comprises the given time period (17 minutes FIG. 2B).” (9/2/2010 *Final Office Action*, Pp. 17-18) Applicants submit, however, that *Inoue* also fails to disclose the claimed features whereby the terminal accesses content from its memory in an offline manner, and that the access of content serves as a

trigger for the terminal to determine its location, in the manner as recited by independent claims 1, 20, 37 and 54, and thus fails to cure the foregoing deficiencies of *Hendricks* in view of *Bims* and *Hale*. Accordingly, for at least the foregoing reasons, neither *Hendricks*, *Bims*, *Hale* or *Inoue* alone, nor the combination of *Hendricks* in view of *Bims* and *Hale*, and further in view of *Inoue*, render claims 5, 24, 41 and 58 obvious under 35 U.S.C. § 103(a).

F. Claims 17, 35, 52 and 69 are Not Rendered Obvious by *Hendricks* in View of *Bims*, and Further in View of *Inoue*, Because the Additionally Cited Reference, *Inoue*, Fails to Cure the Foregoing Deficiencies of *Hendricks* in View of *Bims* (as presented in Section C, above)

Claims 17, 35, 52 and 69 depend from independent claims 11, 29, 46 and 63, respectively, and the rejection applies the cited combination of *Hendricks* in view of *Bims* to claims 17, 35, 52 and 69 on the same bases as with the § 103(a) rejection of their respective independent claims (addressed in Section C, above). Appellants, therefore, incorporate herein the arguments presented above in Section C with respect to the application of the cited combination of *Hendricks* in view of *Bims* to claims 17, 35, 52 and 69, accordingly. The Office Action cites to *Inoue* for the alleged disclosure of the claimed features “wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel (FIG. 2B), wherein the terminal is configured to access the at least one piece of pre-broadcast content at least a predefined period of time before the broadcast content is broadcast (T1 FIG. 2B), and wherein the predefined period of time comprises the given time period (17 minutes FIG. 2B).” (9/2/2010 *Final Office Action*, Pp. 18-19) Applicants submit, however, that *Inoue* also fails to disclose the claimed feature of sending/receiving the content usage log before the broadcast content is broadcast, in the manner as recited by independent claims 11, 29, 46 and 63, and thus fails to cure the foregoing deficiencies of

Hendricks in view of *Bims*. Accordingly, for at least the foregoing reasons, neither *Hendricks*, *Bims* or *Inoue* alone, nor the combination of *Hendricks* in view of *Bims*, and further in view of *Inoue*, render claims 17, 35, 52 and 69 obvious under 35 U.S.C. § 103(a).

VIII. CONCLUSION AND PRAYER FOR RELIEF

For the foregoing reasons, Appellants request the Honorable Board to reverse each of the Examiner's rejections.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

DITTHAVONG MORI & STEINER, P.C.

March 2, 2011
Date

/Phouphanomketh Ditthavong/
Phouphanomketh Ditthavong
Attorney for Applicant(s)
Reg. No. 44658

Craig Plastrik
Attorney/Agent for Applicant(s)
Reg. No. 41254

918 Prince Street
Alexandria, VA 22314
Tel. (703) 519-9952
Fax (703) 519-9958

IX. CLAIMS APPENDIX

1. A system comprising:

a terminal configured to determine to access at least one piece of content from a memory of the terminal in an offline manner after receipt of the at least one piece of content, the access of the at least one piece of content being a trigger to the terminal to determine to obtain its location, the terminal being configured to determine to obtain its location in response to the trigger, wherein the terminal is also configured to determine to store, into a content usage log, at least one content usage statistic relating to the access of the at least one piece of content from memory, and wherein at least one content usage statistic comprises the location of the terminal; and a destination configured to receive the content usage log including the at least one content usage statistic.

2. A system of Claim 1, wherein the terminal is configured to receive the at least one piece of content in accordance with a broadband data broadcast technique, and wherein the at least one piece of content comprises at least one piece of content for at least one channel comprising at least one of a television, radio or data channel.

3. A system of Claim 2, wherein the terminal is configured to determine to send the content usage log to the destination when a return channel between the terminal and the destination is at least one of available or established.

4. A system of Claim 1, wherein the terminal is configured to determine to access at least one piece of content comprising at least one piece of pre-broadcast content related to broadcast content, and wherein the terminal is configured to determine to send the content usage log to the destination before the broadcast content is broadcast.

5. A system of Claim 4, wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel, wherein the terminal is configured to determine to access the at least one piece of pre-broadcast content at least a predefined period of time before the broadcast content is broadcast, and wherein the predefined period of time comprises the given time period.

6. A system of Claim 1, wherein the at least one content usage statistic comprises at least one statistic related to at least one of the terminal or the at least one piece of content accessed from the memory.

7. (Canceled)

8. A system of Claim 1, wherein the terminal is configured to:

determine to repeatedly access at least one piece of content, each access being a trigger to the terminal to determine to obtain its location;

determine to obtain its location in response to each respective trigger;

determine to repeatedly store at least one content usage statistic for at least one period of time; and

determine to send the content usage log to the destination after each period of time.

9. A system of Claim 1, wherein the destination is configured to receive the content usage log including the at least one content usage statistic such that a network entity is configured to determine to send, to the terminal, at least one piece of content based upon the at least one content usage statistic.

10. A system of Claim 1, wherein the at least one content usage statistic comprises at least one of the following relating to the at least one piece of content accessed from the memory:

a time the at least one piece of content was accessed from memory;
information regarding used connection types; or
information regarding available connection types comprising at least one of a signal strength, capacity or utilization rate of the connection types.

11. A system comprising:

a terminal configured to determine to access at least one piece of content from a memory,
wherein the at least one piece of content comprises at least one piece of pre-broadcast content related to broadcast content,
the pre-broadcast content including the broadcast content,
wherein the terminal is also configured to determine to store, into a content usage log,
at least one content usage statistic relating to the terminal accessing the at least one piece of pre-broadcast content from the memory; and
a destination configured to receive the content usage log including the at least one content usage statistic before the broadcast content is broadcast.

12. A system of Claim 11, wherein the terminal is configured to receive the at least one piece of content in accordance with a broadband data broadcast technique, and wherein the at least one piece of content comprises at least one piece of content for at least one channel comprising at least one of a television, radio or data channel.

13. A system of Claim 12, wherein the terminal is configured to determine to send the content usage log to the destination when a return channel between the terminal and the destination is at least one of available or established.

14. A system of Claim 11, wherein the at least one content usage statistic comprises at least one statistic related to at least one of the terminal or the at least one piece of content accessed from the memory.

15. A system of Claim 11, wherein the terminal is configured to access at least one piece of content from a memory of the terminal in an offline manner.

16. A system of Claim 11, wherein the terminal is configured to:

determine to repeatedly access at least one piece of content;

determine to repeatedly store at least one content usage statistic for a period of time before the broadcast content is broadcast; and

determine to send the content usage log to the destination after the period of time and before the broadcast content is broadcast.

17. A system of Claim 11, wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel, wherein the terminal is configured to determine to access the at least one piece of pre-

broadcast content at least a predefined period of time before the broadcast content is broadcast, and wherein the predefined period of time comprises the given time period.

18. A system of Claim 11, wherein the destination is configured to receive the content usage log including the at least one content usage statistic such that a network entity is configured to send, to the terminal, at least one piece of content based upon the at least one content usage statistic.

19. A system of Claim 11, wherein the at least one content usage statistic comprises at least one of the following relating to the at least one piece of content accessed from the memory:

a time the at least one piece of content was accessed from memory;

information regarding used connection types; or

information regarding available connection types comprising at least one of a signal strength, capacity or utilization rate of the connection types.

20. An apparatus comprising:

at least one processor; and

at least one memory including computer program code for one or more programs,

the at least one memory and the computer program code configured to, with the at least one processor, cause the apparatus to perform at least the following,

determine to access at least one piece of content from a memory in an offline manner after receipt of the at least one piece of content, the access of the at least one piece of content being a trigger to determine to obtain a location of the apparatus;

determine to obtain the location of the apparatus in response to the trigger; and

determine to store at least one content usage statistic relating to the access of the at least one piece of content from memory into a content usage log, wherein the at least one content usage statistic comprises the location of the apparatus.

21. An apparatus of Claim 20, wherein the apparatus is further caused to:

receive the at least one piece of content in accordance with a broadband data broadcast technique, wherein the at least one piece of content comprises at least one piece of content for at least one channel comprising at least one of a television, radio or data channel.

22. An apparatus of Claim 21, wherein the apparatus is further caused to:

determine to send the content usage log to a destination when a return channel between the apparatus and the destination is at least one of available or established.

23. An apparatus of Claim 20, wherein the apparatus is further caused to:

receive and store at least one piece of content comprising at least one piece of pre-broadcast content related to broadcast content;
determine to send the content usage log to a destination before the broadcast content is broadcast.

24. An apparatus of Claim 23, wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel, wherein the apparatus is further caused to:

determine to access the at least one piece of pre-broadcast content at least a predefined period of time before the broadcast content is broadcast, wherein the predefined period of time comprises the given time period.

25. An apparatus of Claim 20, wherein the at least one content usage statistic comprises at least one statistic related to at least one of the apparatus or the at least one piece of content accessed from the memory of the apparatus.

26. (Canceled)

27. An apparatus of Claim 20, wherein the apparatus is further caused to:

determine to repeatedly access the at least one piece of content, each access being a trigger to
determine to obtain the location of the apparatus;
determine to obtain the location of the apparatus in response to each respective trigger;
determine to repeatedly store the at least one content usage statistic for at least one period of
time; and
determine to send the content usage log to a destination after each respective period of time.

28. An apparatus of Claim 20, wherein the at least one content usage statistic comprises at least one of the following relating to the at least one piece of content accessed from the memory:

a time the at least one piece of content was accessed from memory;
information regarding used connection types; or
information regarding available connection types comprising at least one of a signal strength,
capacity or utilization rate of the connection types.

29. An apparatus comprising:

at least one processor; and
at least one memory including computer program code for one or more programs,
the at least one memory and the computer program code configured to, with the at least one
processor, cause the apparatus to perform at least the following,

determine to access at least one piece of content from a memory, the at least one piece of content comprising at least one piece of pre-broadcast content related to broadcast content, the pre-broadcast content including the broadcast content; determine to store, into a content usage log, at least one content usage statistic relating to accessing the at least one piece of pre-broadcast content from the memory; and determine to send the content usage log to a destination before the broadcast content is broadcast.

30. An apparatus of Claim 29, wherein the apparatus is further caused to:

receive the at least one piece of content in accordance with a broadband data broadcast technique, wherein the at least one piece of content comprises at least one piece of content for at least one channel comprising at least one of a television, radio or data channel.

31. An apparatus of Claim 29, wherein the apparatus is further caused to:

determine to send the content usage log to the destination when a return channel between the apparatus and the destination is at least one of available or established.

32. An apparatus of Claim 29, wherein the at least one content usage statistic comprises at least one statistic related to at least one of the apparatus or the at least one piece of content accessed from the memory of the apparatus.

33. An apparatus of Claim 29, wherein the apparatus is further caused to:

determine to access the at least one piece of content from a memory of the apparatus in an offline manner.

34. An apparatus of Claim 29, wherein the apparatus is further caused to:

determine to repeatedly access the at least one piece of content;

determine to repeatedly store the at least one content usage statistic for a period of time before the broadcast content is broadcast and;

determine to send the content usage log to a destination after the period of time and before the broadcast content is broadcast.

35. An apparatus of Claim 29, wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel, wherein the apparatus is further caused to:

determine to access the at least one piece of pre-broadcast content at least a predefined period of time before the broadcast content is broadcast, wherein the predefined period of time comprises the given time period.

36. An apparatus of Claim 29, wherein the at least one content usage statistic comprises at least one of the following relating to the at least one piece of content accessed from the memory:

a time the at least one piece of content was accessed from memory;

information regarding used connection types; or

information regarding available connection types comprising at least one of a signal strength, capacity or utilization rate of the connection types.

37. A method comprising:

determining to access at least one piece of content from a memory of a terminal in an offline manner after receipt of the at least one piece of content, the access of the at least one piece of content being a trigger to determine to obtain a location of the terminal;

determining to obtain the location of the terminal in response to the trigger; and
determining to store at least one content usage statistic relating to the access of the at least one piece of content into a content usage log, wherein at least one content usage statistic comprises the location of the terminal.

38. A method of Claim 37 further comprising:

receiving the at least one piece of content into the memory of the terminal in accordance with a broadband data broadcast technique, wherein the at least one piece of content comprises at least one piece of content for at least one channel comprising at least one of a television, radio or data channel.

39. A method of Claim 38 further comprising:

determining to send the content usage log to a destination when a return channel between the terminal and the destination is at least one of available or established.

40. A method of Claim 37 further comprising:

receiving the at least one piece of content into the memory of the terminal, wherein the at least one piece of content comprises at least one piece of pre-broadcast content related to broadcast content;

determining to send the content usage log to a destination; and thereafter

determining to broadcast the broadcast content.

41. A method of Claim 40, wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel, wherein determining to access at least one piece of content comprises determining to access at least one piece of pre-broadcast content at least a predefined period of time before the

broadcast content is broadcast, and wherein the predefined period of time comprises the given time period.

42. A method of Claim 37, wherein at least one content usage statistic comprises at least one statistic related to at least one of the terminal or the at least one piece of content accessed from the memory of the terminal.

43. (Canceled)

44. A method of Claim 37 further comprising:

determining to repeatedly access the at least one piece of content, each access being a trigger to determine to obtain the location of the terminal;
determining to obtain the location of the terminal in response to each respective trigger;
determining to store at least one content usage statistic for at least one period of time; and
determining to send the content usage log to a destination after each period of time.

45. A method of Claim 37, wherein the at least one content usage statistic comprises at least one of the following relating to the at least one piece of content accessed from the memory:

a time the at least one piece of content was accessed from memory;
information regarding used connection types; or
information regarding available connection types comprising at least one of a signal strength, capacity or utilization rate of the connection types.

46. A method comprising:

determining to access at least one piece of content from a memory of a terminal, wherein the at least one piece of content comprises at least one piece of pre-broadcast content related to broadcast content, the pre-broadcast content including the broadcast content;

determining to store, into a content usage log, at least one content usage statistic relating to accessing the at least one piece of pre-broadcast content from the memory;

determining to send the content usage log to a destination; and thereafter

determining to broadcast the broadcast content.

47. A method of Claim 46 further comprising:

receiving at least one piece of content into the memory of the terminal in accordance with a broadband data broadcast technique, wherein the at least one piece of content comprises at least one piece of pre-broadcast content for at least one channel comprising at least one of a television, radio or data channel.

48. A method of Claim 47 further comprising:

determining to send the content usage log to a destination when a return channel between the terminal and the destination is at least one of available or established.

49. A method of Claim 46, wherein the at least one content usage statistic comprises at least one statistic related to at least one of the terminal or the at least one piece of content accessed from the memory of the terminal.

50. A method of Claim 46 further comprising:

determining to access the at least one piece of content from a memory of the terminal in an offline manner.

51. A method of Claim 46 further comprising:

determining to repeatedly access the at least one piece of content;

determining to store the at least one content usage statistic for a period of time before broadcasting the broadcast content; and

determining to send the content usage log to a destination after the period of time and before broadcasting the broadcast content.

52. A method of Claim 46, wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel, wherein determining to access the at least one piece of content comprises determining to access the at least one piece of pre-broadcast content at least a predefined period of time before the broadcast content is broadcast, and wherein the predefined period of time comprises the given time period.

53. A method of Claim 46, wherein the at least one content usage statistic comprises at least one of the following relating to the at least one piece of content accessed from the memory:

a time the at least one piece of content was accessed from memory;

information regarding used connection types; or

information regarding available connection types comprising at least one of a signal strength, capacity or utilization rate of the connection types.

54. A computer-readable storage medium carrying one or more sequences of one or more instructions which, when executed by one or more processors, cause an apparatus to at least perform the following steps:

determining to access at least one piece of content from a memory of a terminal in an offline manner after receipt of the at least one piece of content, the access of the at least one piece of content being a trigger to determine to obtain a location of the terminal;

determining to obtain the location of the terminal in response to the trigger; and

determining to store at least one content usage statistic relating to the access of the at least one piece of content into a content usage log, wherein at least one content usage statistic comprises the location of the terminal.

55. A computer-readable storage medium of Claim 54, wherein the apparatus is caused to further perform:

receiving the at least one piece of content into the memory of the terminal in accordance with a broadband data broadcast technique, wherein the at least one piece of content comprises at least one piece of content for at least one channel comprising at least one of a television, radio or data channel.

56. A computer-readable storage medium of Claim 55, wherein the apparatus is caused to further perform:

determining to send the content usage log to a destination when a return channel between the terminal and the destination is at least one of available or established.

57. A computer-readable storage medium of Claim 54, wherein the apparatus is caused to further perform:

receiving at least one piece of content into the memory of the terminal, wherein the at least one piece of content comprises at least one piece of pre-broadcast content related to broadcast content; and
determining to send the content usage log to a destination before the broadcast content is broadcast.

58. A computer-readable storage medium of Claim 57, wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel, wherein the apparatus is caused to further perform:

determining to access at least one piece of pre-broadcast content at least a predefined period of time before the broadcast content is broadcast, and wherein the predefined period of time comprises the given time period.

59. A computer-readable storage medium of Claim 54, wherein the at least one content usage statistic comprises at least one statistic related to at least one of the terminal or the at least one piece of content accessed from the memory of the terminal.

60. (Canceled)

61. A computer-readable storage medium of Claim 54, wherein the apparatus is caused to further perform:

determining to repeatedly access at least one piece of content, each access being a trigger to determine to obtain the location of the terminal;
determining to obtain the location of the terminal in response to each trigger;

determining to repeatedly store at least one content usage for at least one period of time; and
determining to send the content usage log to a destination after each period of time.

62. A computer-readable storage medium of Claim 54, wherein the at least one content usage statistic comprises one of the following relating to the at least one piece of content accessed from the memory:

a time the at least one piece of content was accessed from memory;
information regarding used connection types; or
information regarding available connection types comprising at least one of a signal strength, capacity or utilization rate of the connection types.

63. A computer-readable storage medium carrying one or more sequences of one or more instructions which, when executed by one or more processors, cause an apparatus to at least perform the following steps:

determining to access at least one piece of content from a memory of a terminal, wherein the at least one piece of content comprises at least one piece of pre-broadcast content related to broadcast content, the pre-broadcast content including the broadcast content;
determining to store at least one content usage statistic relating to accessing the at least one piece of pre-broadcast content into a content usage log; and
determining to send the content usage log to a destination before the broadcast content is broadcast.

64. A computer-readable storage medium of Claim 63, wherein the apparatus is caused to further perform:

receiving the at least one piece of content into the memory of the terminal in accordance with a broadband data broadcast technique, wherein the at least one piece of content comprises at least one piece of pre-broadcast content for at least one channel comprising at least one of a television, radio or data channel.

65. A computer-readable storage medium of Claim 64, wherein the apparatus is further caused to perform:

determining to send the content usage log to a destination when a return channel between the terminal and the destination is at least one of available or established.

66. A computer-readable storage medium of Claim 63, wherein the at least one content usage statistic comprises at least one statistic related to at least one of the terminal or the at least one piece of content accessed from the memory of the terminal.

67. A computer-readable storage medium of Claim 63, wherein the apparatus is caused to further perform:

determining to access at least one piece of content from a memory of the terminal in an offline manner.

68. A computer-readable storage medium of Claim 63, wherein the apparatus is caused to further perform:

determining to repeatedly access at least one piece of content;

determining to store at least one content usage statistic for a period of time before broadcasting the broadcast content; and

determining to send the content usage log to a destination after the period of time and before the broadcast content is broadcast.

69. A computer-readable storage medium of Claim 63, wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel, wherein the apparatus is caused to further perform:

determining to access the at least one piece of pre-broadcast content at least a predefined period of time before the broadcast content is broadcast, and wherein the predefined period of time comprises the given time period.

70. A computer-readable storage medium of Claim 63, wherein the at least one content usage statistic comprises one of the following relating to the at least one piece of content accessed from the memory:

a time the at least one piece of content was accessed from memory;

information regarding used connection types; or

information regarding available connection types comprising at least one of a signal strength, capacity or utilization rate of the connection types.

71. An apparatus of Claim 20, wherein the location of the apparatus includes a geographic location of the apparatus.

X. EVIDENCE APPENDIX

Appellants are unaware of any evidence that is required to be submitted in the present Evidence Appendix.

XI. RELATED PROCEEDINGS APPENDIX

Appellants are unaware of any related proceedings that are required to be submitted in the present Related Proceedings Appendix.